

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 97 CR 98

RANDY YAGER,

Defendant.

RANDY YAGER'S MOTION *IN LIMINE* NO. 3

Randy Yager, by the undersigned counsel, moves the Court *in limine* to prohibit government witness Ronald Talmadge from testifying "...that approximately 3-4 days prior to the murder of Donald Fogg, [Randy] Yager and a member [of the Outlaws] from Chicago went to Detroit to meet with Harry Bowman."

1. On February 22, 2016, the government provided the defense with a second report of interviews of Ronald Talmadge conducted on June 8, 20 and 25, July 25, August 7, 15 and 29, September 20 and 21, November 5 and 7, 2001, by ATF Special Agents J. Quabius and Sandra Develconare, while Talmadge was in the custody of U.S. Marshals. This was the second report of interview of Mr. Talmadge conducted on those same dates that was provided to the defense by

the government. Unlike the first report of interview, this one related Mr. Talmadge's statements concerning the homicide of Donald Fogg. Mr. Fogg's homicide is predicate act 7 of the second superceding indictment in the above-captioned matter *See*, Dkt. 2101, ¶ 15.. A copy of that report of interview is appended hereto as Exhibit A.

3. That report states:

Talmadge recalled that approximately 3-4 days prior to the murder of Donald Fogg, Yager and a member from Chicago went to Detroit to meet Harry Bowman.

Exhibit A, pg. 3, ¶9.

4. The report does not claim that Mr. Talmadge had firsthand knowledge of this or that he accompanied Mr. Yager and a member from Chicago to Detroit, nor does the report claim Mr. Talmadge was at the meeting with Mr. Bowman. The report does not relate that Mr. Talmadge ever said from whom he got this information.

5. Because there is no knowledge of what, if anything, was said at the alleged meeting, the prosecution cannot establish that this was a statement made during and in furtherance of a conspiracy. *See* FRE 801 (d)(2)(E).

6. The statement is hearsay and does not fall within any of the exceptions in FRE 803 or 804.

7. The admission of the statement would also violate the accused's

right to confrontation pursuant to the Sixth Amendment to the Constitution of the United States of America.

WHEREFORE, it is respectfully requested that Ronald Talmadge, if called by the government as a witness, be prohibited from giving testimony that 3-4 days prior to the murder of Donald Fogg, the accused and a member from Chicago went to Detroit to meet with Harry Bowman.

Dated at Madison, Wisconsin this 4th day of March, 2016.

Respectfully submitted,

Randy Yager, Defendant.

/s/ Stephen P. Hurley
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Wisconsin Bar No. 1015654

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